

APPENDICES A THROUGH C

Of

HAMS FOR ACTION (HFA)  
PETITION FOR RULEMAKING

July 12, 2006

**APPENDIX A:**  
**COMPARISON ON KEY POINTS:**  
**ISRAEL/ROSS ANTENNA BAN BILL (H.R. 3876)**  
**And**  
**HAMS FOR ACTION (HFA)**  
**PETITION FOR RULEMAKING TO THE FCC**

	<u>(5/22/05)</u> <u>H. R. 3876</u>	<u>(7/12/06)</u> <u>HFA PETITION</u>	<u>Reason(s)</u> <u>For Change</u>
How many hams impact are protected by on overrides of neighborhoods. antenna bans? case by to a neighborhood incentive for ECOs.	ALL hams.	Only hams who have self-certified themselves to the FCC as Emergency Communications Operators (ECOs). ECOS are hams with Em-Comm Training and also Membership in a group such as ARES, MARS, etc.	Reduces of overrides  Strengthens for overrides tying them clear interest. Creates hams to be
Who must provide prevalence “reasonable apartments, cities will be left out if we of ham antennas? address HOAs covenants.	Homeowners’ Associations accommodation” restrictive covenants.	HOAs and/or covenants and/or (HOAs) and/or	Due to the of landlords.  only and

How is “reasonable “rebuttable accommodation” presumption” allows defined? and/or case negotiations, it saves money by the need when they required or	Not defined.  Will presumably be defined  case-by-case  over time, probably through litigation on many occasions.	Antenna limits  are “rebuttably presumed” to be “reasonable” if they allow wire antennas of 20 feet for townhouses and SF homes and antennas of 3 feet for apts./condos.	While the  litigation, case-by-  time and avoiding for them are not desired.
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Don Schellhardt, Esquire KI4PMG of HFA  
July 12, 2006

**APPENDIX B:**

**An Outline of  
HAMS FOR ACTION (HFA) PETITION FOR RULEMAKING**

**July 12, 2006**

**HFA has filed a Petition on antenna bans with the FCC.**

**To facilitate action by the FCC, here is a Checklist of provisions:**

**HAMS ELIGIBLE TO BENEFIT FROM ANTENNA BAN OVERRIDES**

Self-certified Emergency Communications Operators (ECOs):	
Continuing Active Membership in RACES, ARES, MARS or a comparable organization	_____
Successful completion of ARRL EmComm Training I or comparable training	_____
(Within 1 year) Successful completion of EmComm Training II or comparable training	_____

(Within 1 year) Upgrade, if needed, from Tech license to a more advanced ham license	_____
OTHER ELIGIBILITY REQUIREMENTS	
Antenna and related equipment must be painted a color which matches, at least approximately, the immediate surroundings (exterior walls, trees, fences, etc.)	_____
(Every 3 years) Ham must physically inspect the antenna and related equipment, re-painting and/or repairing it as necessary to keep it fully operational and maintaining the aesthetic quality of its original appearance	_____
WHO IS REQUIRED TO MAKE "REASONABLE ACCOMMODATION"	
Homeowners' Associations (HOAs) and/or restrictive covenants (CCC&Rs)	_____
Landlords	_____
FINES	
For fraudulent self-certification by hams:	
\$50.00 per day, up to a maximum of \$2,000.00 in any given 3-year period	_____
For knowing failure to provide "reasonable accommodation":	
\$50.00 per day, up to a maximum of \$2,000.00 in any given 3-year period	_____

HAMS FOR ACTION (HFA)  
An Outline of Petition For Rulemaking  
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#### THE CONCEPT OF "REASONABLE ACCOMMODATION"

To minimize costly and time-consuming litigation, and other possible delays, provide a definition of "reasonable accommodation" -- stating that certain policies will constitute a "rebuttable presumption" of "reasonableness" (which can still be challenged in court if any party can show atypical factors which justify different standards)

#### STANDARDS THAT ARE "REBUTTABLY PRESUMED" TO BE REASONABLE

Single Family Homes and Townhouses:

Height of at least 20 feet for antenna and related equipment, or 4 feet above the structure's roofline if that is higher	_____
Width of antenna and related equipment that keeps it within	

ham's property \_\_\_\_\_  
Wire antennas only \_\_\_\_\_  
Condominiums and Apartments: \_\_\_\_\_  
Height of at least 3 feet \_\_\_\_\_  
Width of at least 3 feet \_\_\_\_\_  
Placement as much as 18 inches away from affected \_\_\_\_\_  
exterior wall(s) \_\_\_\_\_

Don Schellhardt, Esquire KI4PMG of HFA

July 12, 2006

**APPENDIX C:**

**TEXT OF POSSIBLE REGULATIONS TO IMPLEMENT  
HAMS FOR ACTION (HFA) PETITION FOR RULEMAKING**

**July 12, 2006**

**PART ONE --**

**New Self-Certified Amateur Radio Operator Classifications**

**SECTION 101. (a) DEFINITION OF AN EMERGENCY  
COMMUNICATIONS OPERATOR (ECO). An Emergency Communications  
Operator (ECO) is a licensed Amateur Radio Operator who self-certifies to**

the [Federal Communications] Commission, subject to fines for any willful misrepresentation of a material fact, that he or she has successfully completed competent training in Emergency Communications and is a continuing Active Member of an organization which routinely engages in Emergency Communications, and/or in providing support services for “first responders” to emergencies, and/or in providing support services for the armed forces of the United States, and/or in providing support services for other government agencies.

(b) INITIAL SELF-CERTIFICATION. At the time of initial certification, an ECO must certify to the Commission that he or she:

- (1) Holds a valid Amateur Radio license;

*And*

- (2) Has successfully completed Emergency Communications Training

I, conducted by the American Radio Relay League (ARRL),  
or

has completed comparable training in Emergency  
Communications,

with a comparable value in Continuing Education Units  
(CEUs).

(c) RE-CERTIFICATION AFTER 1 YEAR. To maintain the certification for more than 1 year, an ECO must certify to the Commission, on or before the first anniversary of the initial self-certification, that he or she:

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- (1) Has successfully completed Emergency Communications Training

II, conducted by ARRL, or has completed comparable  
training in

Emergency Communications, with a comparable value in CEUs;

*And*

- (3) Has become an active Member of, and participant in, the Radio Amateur Civil Emergency Service (RACES), the Amateur Radio Emergency Services (ARES), the Military Affiliate Radio Service (MARS), SKYWARN and/or a comparable organization.

(d) RE-CERTIFICATION AT 3-YEAR INTERVALS. To maintain the certification indefinitely, an ECO must certify to the Commission, within 60 days of the third anniversary of the initial self-certification, and within 60 days of the end of every subsequent 3-year period, that he or she continues to serve as an active Member of one of the organizations referenced in Section 101 (c) (3), or in a comparable organization.

SECTION 102. REQUIREMENT TO MAINTAIN DOCUMENTATION OF COMPLIANCE WITH SELF-CERTIFICATION REQUIREMENTS. An ECO or a PART shall be required to maintain documentation of compliance with all requirements for self-certification, and shall be required to provide such documentation to the Commission within 5 days of any request for it by the Commission.

SECTION 103. PENALTY FOR FRAUDULENT SELF-CERTIFICATION. The penalty for any willful misrepresentation of a material fact, related to requirements for self-certification, shall be \$50.00 per day, up to a maximum of \$2,000.00 during any 3-year period.

PART TWO --

Requirements For "Reasonable Accommodation" Of  
Certain Amateur Radio Antennas and Related Equipment

SECTION 201. REQUIREMENT FOR "REASONABLE  
ACCOMMODATION" OF CERTAIN AMATEUR RADIO EQUIPMENT.

Other provisions of law notwithstanding, any restrictions adopted and applied by a Homeowners' Association (HOA) and/or a restrictive covenant, and/or by a landlord, shall be null and void, and unenforceable, to the extent that they fail to provide for the reasonable accommodation of antennas and related equipment which is used by an Amateur Radio Operator who meets the criteria set forth in Section 202.

SECTION 202. DEFINITION OF AMATEUR RADIO OPERATORS  
WHOSE ANTENNAS AND RELATED EQUIPMENT MUST BE  
ACCOMMODATED UNDER SECTION 201. Section 201 shall be applicable to an Amateur Radio Operator who:

- (a) Is accurately self-certified as an Emergency Communications Operator (ECO), pursuant to Section 101;

*And*

- (b) Has certified to the Commission, at the time of initial self-certification, that all exterior antennas and related equipment, except wire-radiating elements and insulators, have been painted a color which matches,

at least approximately, the immediate surroundings (which may include trees and fences, as well as exterior surfaces);

*And*

- (c) Has certified to the Commission, within 60 days of the third anniversary of the initial self-certification, and within 60 days of the end of every subsequent 3-year period, that he or she:

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- (i) Has performed, recently, and more frequently if needed, a physical inspection of the exterior antenna and related equipment;

*And*

- (ii) Has undertaken whatever repairs and/or maintenance are required to optimize safety and operational efficiency;

*And*

- (iii) If necessary, has re-painted the antenna and/or related equipment, except for wire-radiating elements and insulators, and/or has otherwise restored any of the equipment, to assure that it retains the aesthetic quality of its original appearance.

SECTION 203. REBUTTABLE PRESUMPTIONS OF “REASONABLE ACCOMMODATION” FOR SINGLE FAMILY HOMES AND TOWNHOUSES. In the case of Amateur Radio Operators who meet the criteria set forth in Section 202, restrictions adopted by an HOA and/or a

restrictive covenant, and/or by a landlord, shall be rebuttably presumed to constitute a reasonable accommodation if they allow:

- (a) Height for the antenna, and related equipment, of at least 20 feet, or 4 feet above the structure's roofline, whichever is higher;

*And*

- (b) Width for the antenna, and related equipment, which is limited to the Amateur Radio operator's property;

*And*

- (c) Wire antennas with a maximum wire size of AWG No. 12, or wire antennas which use enameled copper or enameled steel.

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SECTION 204. REBUTTABLE PRESUMPTIONS OF "REASONABLE ACCOMMODATION" FOR CONDOMINIUMS AND APARTMENTS. In the case of Amateur Radio Operators who meet the criteria set forth in Section 202, restrictions adopted by an HOA and/or a restrictive covenant, and/or by a landlord, shall be rebuttably presumed to constitute reasonable accommodation if they allow:

- (a) Height for the antenna, and related equipment, of at least 3 feet;

*And*

- (b) Width for the antenna, and related equipment, of at least 3 feet;

*And*

- (c) Placement of the antenna at least 18 inches from any exterior wall(s);

*And*

- (d) Reasonable use of common space for wires, cables and similar

equipment to the extent that such use of common space is demonstrably necessary for safe and efficient operation of the Amateur Radio antenna and related equipment.

**SECTION 205. POSSIBLE COMMISSION RE-CONSIDERATION OF REBUTTABLE PRESUMPTIONS OF “REASONABLE ACCOMMODATION”.**

Effective on the fifth anniversary of the effective date of Sections 203 and 204, upon the Motion of an affected party, or upon its own Motion, the Commission shall re-consider any or all of the rebuttable presumptions in Sections 203 and 204 if it can be demonstrated, by a preponderance of the evidence, that changes in technology, and/or in other circumstances, merit such re-consideration.

**SECTION 206. PENALTY FOR KNOWING FAILURE TO PROVIDE FOR “REASONABLE ACCOMMODATION” OF CERTAIN AMATEUR RADIO EQUIPMENT.** The penalty for knowing failure to provide for reasonable accommodation of certain Amateur Radio antennas and related equipment, used by Amateur Radio Operators who meet the criteria set forth in Section 202, shall be \$50.00 per day, up to a maximum of \$2,000.00 during any 3-year period.